

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

KLARQUIST SPARKMAN, LLP
Attn. Haendler, Jeffrey B.
One World Trade Center
Suite 1600, 121 S.W. Salmon Street
Portland, Oregon 97204
UNITED STATES OF AMERICA

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

DOCKETED FOR:

6/27/05 7/27/05

(PCT Rule 44.1)

Date of mailing
(day/month/year)

27/04/2005

Applicant's or agent's file

COMPUTER

6395-66078-02

BOOK

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

SCAN

PCT/US2004/032378

CC:

International filing date
(day/month/year)

01/10/2004

Applicant

THE GOVERNMENT OF THE UNITED STATES OF AMERICA ...

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Joanna Marnell

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

| | | |
|---|--|---|
| Applicant's or agent's file reference 6395-66078-02 | FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below. | |
| International application No. PCT/US2004/032378 | International filing date (day/month/year) 01/10/2004 | (Earliest) Priority Date (day/month/year) 17/10/2003 |
| Applicant THE GOVERNMENT OF THE UNITED STATES OF AMERICA ... | | |

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box II).

3. ☐ **Unity of invention is lacking** (see Box III).

4. With regard to the **title**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. 3

☐ as suggested by the applicant.

☒ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

- b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International Application No

CT/US2004/032378

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 G01N1/24 G01N15/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 G01N

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, INSPEC, COMPENDEX, BIOSIS, IBM-TDB, EMBASE

C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|------------|---|-----------------------|
| X | US 4 941 899 A (LIU ET AL) 17 July 1990 (1990-07-17) | 1-11, 22-33 |
| Y | column 2, line 21 - column 3, line 51 figures 1-3 | 12-21, 34-39 |
| Y | ----- HU 193 716 B (KARPATI, JUDIT, HU; LAKATOS, GUSZTAV, HU) 31 July 1989 (1989-07-31) figures 1-4 | 12-21, 34-39 |
| A | ----- US 4 178 794 A (INDERBITZEN, EMIL R ET AL) 18 December 1979 (1979-12-18) the whole document ----- -/-- | 1-39 |

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents:

A document defining the general state of the art which is not considered to be of particular relevance

E earlier document but published on or after the international filing date

L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

O document referring to an oral disclosure, use, exhibition or other means

P document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

G document member of the same patent family

Date of the actual completion of the international search

14 April 2005

Date of mailing of the international search report

27/04/2005

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Timonen, T

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US2004/032378

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|------------|--|-----------------------|
| A | US 6 103 534 A (STENGER ET AL) 15 August 2000 (2000-08-15) figures 1,5 column 6, line 53 - column 7, line 45 ----- | 1-39 |
| A | US 6 517 593 B1 (ROBERTSON LARRY DON ET AL) 11 February 2003 (2003-02-11) the whole document ----- | 1-39 |

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US2004/032378

| Patent document cited in search report | | Publication date | Patent family member(s) | | Publication date |
|--|----|------------------|-------------------------|---------------|------------------|
| US 4941899 | A | 17-07-1990 | AU | 5387090 A | 25-10-1990 |
| HU 193716 | B | 28-05-1987 | HU | 41901 A2 | 28-05-1987 |
| US 4178794 | A | 18-12-1979 | NONE | | |
| US 6103534 | A | 15-08-2000 | NONE | | |
| US 6517593 | B1 | 11-02-2003 | US | 2003015098 A1 | 23-01-2003 |

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

| | |
|--|---|
| To: PCT | |
| see form PCT/ISA/220 DATED FOR: <u>8/17/05</u> ✓ | |
| WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1) | |
| DATE: <u>8/17/05</u> BY: <u>MB</u> | Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet) |
| Applicant's or agent's file reference see form PCT/ISA/220 | |
| FOR FURTHER ACTION See paragraph 2 below | |
| International application No. PCT/US2004/032378 | International filing date (day/month/year) 01.10.2004 |
| Priority date (day/month/year) 17.10.2003 | |
| International Patent Classification (IPC) or both national classification and IPC G01N1/24, G01N15/00 | |
| Applicant THE GOVERNMENT OF THE UNITED STATES OF AMERICA ... | |

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application


2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

| | |
|--|--|
| Name and mailing address of the ISA: <div style="text-align: center;">  </div> European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Timonen, T Telephone No. +49 89 2399-5666 |
|--|--|



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/032378

IAP2004032378 04 APR 2006

Box No. 1 Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing.
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/032378

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|-------------------------|
| Novelty (N) | Yes: Claims | 3,5-7,10-21,23-26,30-39 |
| | No: Claims | 1,2,4,8-9,22,27-29 |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | 3,5-7,10-21,23-26,30-39 |
| Industrial applicability (IA) | Yes: Claims | 1-39 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

10/575048
International application No.

PCT/US2004/032378

IAP20 Rec'd PCT/US 04 APR 2006

1. Reference is made to the following documents.
D1: US-A-4 941 899 (LIU ET AL) 17 July 1990 (1990-07-17)
D2: HU 193 716 B (KARPATI,JUDIT,HU; LAKATOS,GUSZTAV,HU) 31 July 1989
(1989-07-31)

Objections pursuant to Article 33(2) PCT (Novelty)

2. Document D1 discloses an apparatus for collecting airborne particles comprising
 - a collection vessel (23) with an open end and a closed end,
 - a collection vessel retaining member (17,25) adapted to be removably coupled to the collection vessel,
 - an air-inlet conduit (15) in the retaining member for permitting air to flow into the collection vessel through the open end,
 - an air-outlet conduit (19) for permitting air to exit the collection vessel; wherein
 - the inlet and outlet conduits are configured in such a way that the air flowing into collection vessel coupled to the retaining member establishes a cyclonic flow path separating the airborne particles from the air.

See Figure 1 and column 2, lines 21-51.

Accordingly, the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

- 2.1 The air-inlet conduit (15) according to D1 is non-orthogonal to the plane that is parallel to the open end of the collection vessel (23), see Figure 1. Accordingly, the subject-matter of claim 2 is not new in the sense of Article 33(2) PCT.
- 2.2 The air-outlet conduit (19) according to D1 extends generally axially relative to the collection vessel (23), see Figure 1. Accordingly, the subject-matter of claim 4 is not new in the sense of Article 33(2) PCT.
- 2.3 According to D1, the collection vessel (23) is a first collection vessel, the air-inlet conduit (15) is a first air-inlet, the air-outlet conduit (19) is a first air-outlet; and
 - the retaining member (17,25) is adapted to be removably coupled to a second

- collection vessel (30),
- the retaining member (17,25) comprises a second air-inlet (26) and a second air-outlet (38), the first air-outlet (19) being connected to the second air-inlet (26), in such a way that
 - the air flowing from the first air-outlet (19) flows into the second collection vessel (30) through the second air-inlet (26); wherein
 - the second air-inlet and air-outlet are configured in such a way that a cyclonic flow separating the airborne particles from the air is established.

See Figure 3, and column 2, line 52 - column 3, line 51.

Accordingly, the subject-matter of claim 8 is not new in the sense of Article 33(2) PCT.

- 2.4 According to D1, the particles deposited in the first collection vessel (23) are generally larger than the particles deposited in the second collection vessel (30), see column 2, lines 49-51. Accordingly, the subject-matter of claim 9 is not new in the sense of Article 33(2) PCT.
3. Claim 22 defines a method analogue to the apparatus of claim 1. Therefore, the objections under item 2 above apply *mutatis mutandis* to the subject-matter of claim 22 which, accordingly, is not new in the sense of Article 33(2).
- 3.1 Claim 27 defines a method analogue to the apparatus of claim 8. Therefore, the objections under item 2.3 above apply *mutatis mutandis* to the subject-matter of claim 27 which, accordingly, is not new in the sense of Article 33(2).
- 3.2 Claim 28 defines a method analogue to the apparatus of claim 9. Therefore, the objections under item 2.4 above apply *mutatis mutandis* to the subject-matter of claim 28 which, accordingly, is not new in the sense of Article 33(2).
- 3.3 According to D1, analysis is performed on the particles collected in the collection vessel. Accordingly, the subject-matter of claim 29 is not new in the sense of Article 33(2) PCT.

Objections pursuant to Article 33(3) PCT (Inventive Step)

4. The subject-matter of claim 12 differs from that disclosed in the closest prior art D1 (see above) in that the air-inlet conduit is non-orthogonal and non-parallel to a line extending longitudinally with respect to the collection vessel.

The technical problem addressed by the above mentioned difference is to provide an alternative construction for establishing a cyclonic air-flow.

A cyclonic sampler with an air-inlet conduit that is non-orthogonal and non-parallel to a line extending longitudinally with respect to the collection vessel is known from document D2, see Figures 3 and 4. Accordingly, the person skilled in the art faced with the above mentioned problem would consider the different alignment of the air-inlet a mere design option and would use this alternative construction in accordance with the circumstances without having to apply any inventive skill.

Accordingly, the subject-matter of claim 12 does not contain an inventive step in the sense of Article 33(3) PCT.

5. Claim 34 defines a method analogue to the apparatus of claim 1. Therefore, the objections under item 4 above apply *mutatis mutandis* to the subject-matter of claim 22 which, accordingly, does not contain an inventive step in the sense of Article 33(3) PCT.
6. The features of dependent claims 13, 15-20, 35 and 37-39 are already known from documents D1 or D2. Therefore, these claims do not add anything of inventive significance to the subject-matter of the independent claims. Accordingly, the subject-matter of claims 13, 15-20, 35 and 37-39 does not contain an inventive step in the sense of Article 33(3) PCT.

7. Dependent claims 3, 5-7, 10-11, 14, 21 and 23-26, 30-33, 36 would appear to define minor modifications to the apparatus or method respectively. These modifications are either well known in the art or merely workshop modifications. Hence, the person skilled in the art would carry them out in accordance with the circumstances without having to exercise any inventive skill whatsoever. Accordingly, the subject-matter of the above-mentioned claims does not contain an inventive step in the sense of Article 33(3) PCT.

Further observations on the form and content of the international application

8. In addition to the objections above, the following should be noted.
- 8.1 Independent apparatus claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 8.2 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor are these documents identified therein.
- 8.3 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 8.4 The vague and imprecise statement in the description on page 23 implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.
- 8.5 Claims 32 and 33 seek to define the method by features of the collected particles. As these particles are not a part of the method, the method should not have been defined by their features. Accordingly, the subject-matter of claims 32 and 33 does not fulfill the requirements of Article 6 PCT with respect to clarity.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/US2004/032378